

April 10, 2015

*via overnight mail*

Margaret Herring, Civil Investigator  
U.S. Environmental Protection Agency, Region 5  
Superfund Division  
Enforcement and Compliance Assurance Branch (SE-5J)  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

**Re: South Dayton Dump & Landfill Site in Moraine, Ohio  
Response to Request for Information**

Dear Ms. Herring:

Enclosed please find NCR Corporation's Response to USEPA Region 5's Request for Information concerning the South Dayton Dump. Please contact me if you require any further information.

Sincerely,  
**LANGSAM STEVENS SILVER &  
HOLLAENDER LLP**

  
Larry Silver

Cc: Thomas Nash, EPA Region 5

## **RESPONSE OF NCR CORPORATION TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S INFORMATION REQUEST**

NCR Corporation ("NCR") hereby responds to the January 16, 2015 Request for Information ("Information Request") from the United States Environmental Protection Agency – Region 5 ("EPA"). The Information Request was received by NCR on January 19, 2015. EPA extended the response date to April 6, 2015 as reflected in an email from Thomas Nash of EPA dated March 5, 2015, and extended the response date to April 13, 2015 as reflected in an email from Thomas Nash dated April 1, 2015.

### **GENERAL OBJECTIONS**

1. NCR objects to the Instructions and Definitions contained in the Information Request on the ground that they impose obligations greater than those otherwise required by law. In particular, and without limitation, NCR objects to Instructions No. 6 (first sentence), No. 7 (all information and documents ... in the possession or control of your ... former employees") and No. 10.
2. NCR objects to the Information Request to the extent that it seeks information that is not calculated to discover relevant information.
3. NCR objects to the Information Request to the extent that it is unduly burdensome, oppressive, overbroad, and unreasonable. In particular, NCR objects to Instructions No. 6 (first sentence) and No. 7 (all information and documents ... in the possession or control of your ... former employees").
4. NCR objects to the Information Request to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege or rule that protects such information from disclosure.
5. NCR objects to the Information Request to the extent that it seeks documents or information already in the possession or control of the EPA.
6. NCR objects to the Information Request to the extent that it is unlimited in time. Pursuant to the limitation in temporal scope which was communicated by Thomas Nash on February 11, 2015, NCR limits its responses to the time period from 1941 through 1996.
7. NCR objects to the Information Request to the extent that it is unlimited in geographic scope. Pursuant to the limitation as to the geographic scope of the Information Requests which was communicated by Thomas Nash on February 11, 2015, NCR limits its responses to the facilities located within 50 miles of the Site.

Without waiving the foregoing and subject to the additional specific objections in NCR's individual responses, NCR responds as follows:

### **SPECIFIC RESPONSES**

1. Identify all persons consulted in the preparation of the answers to these questions.

**Answer:** The following persons were consulted in the preparation of these answers:

Roger McCready  
Currently with Cox-Colvin & Associates, Inc. – Former NCR Corporate Environmental Engineer  
Cox-Colvin & Associates, Inc.

7750 Corporate Blvd  
Plain City, Ohio 43064  
614 526-2040  
Roger\_McCready@CoxColvin.com

Jeff Opt  
NCR Archivist, Dayton History  
1000 Carillon Blvd.  
Dayton, OH 45409  
(937) 293-2841 ext. 116  
jopt@daytonhistory.org

2. Identify all documents consulted, examined or referred to in the preparation of the answers to these questions, and provide copies of all such documents.

**Answer:** NCR states that the following documents already in possession of EPA were consulted in the preparation of these responses:

NCR's Response to EPA's Information Request dated March 18, 2003 and attached documents
EPA's Response to NCR's FOIA Request dated November 21, 2005 and attached documents
Email from Thomas Nash to Robin Lunn and Karen Cibulski re: Wayne Wertz dated March 7, 2006
Deposition of Edward Grillot dated April 24, 2012
Deposition of Edward Grillot dated December 16-17, 2013
Affidavit of Horace J. Boesch dated August 25, 2005
EPA Deposition of Horace J. Boesch dated February 28, 2006
Deposition of Horace J. Boesch, Jr. dated December 1, 2011
Deposition of Horace J. Boesch, Jr. dated October 23, 2014
Deposition of Michael Wendling dated July 17, 2012
Deposition of Michael Wendling dated April 23, 2014
Deposition of David Grillot dated May 28, 2014
ITW Letter to EPA dated November 14, 2005 Re: Potentially Responsible Party (PRP) Information, South Dayton Dump and Landfill Site – Moraine, OH and attached documents
NCR's Response to EPA's Information Request for Valleycrest Landfill dated May 21, 1993 and attached/referenced documents

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons. Provide their current, or last known, address, telephone numbers, and e-mail address.

**Answer:** No.

4. Provide names, addresses, telephone numbers, and e-mail addresses of any individuals, including former and current employees, who may be knowledgeable about Respondent's operations and hazardous substances handling, storage and disposal practices.

**Answer:** NCR objects to the use of the terms "operations" insofar as it does not relate to NCR's waste disposal practices. Subject to and without waiving this or any other objection, the only persons known to NCR were identified in NCR's Response to EPA's Information Request dated March 18, 2003.

5. State the date(s) on which the Respondent sent, brought or moved drums and/or hazardous substances to the South Dayton Dump and Landfill (SDDL) Site and the names, addresses, telephone numbers, and e-mail addresses of the person(s) making arrangements for the drums and/or hazardous substances to be sent, brought or moved to the SDDL Site.

**Answer:** As explained in NCR's Response to EPA's Information Request dated March 18, 2003, NCR may have self-hauled its own waste to the Site in the late 1940s and early 1950s. Retired NCR employees report hauling general wastes from the NCR facility in Dayton to the "Broadway Landfill" in the early 1950s.

6. Did Respondent haul or send materials to SDDL in vehicles it owned, leased or operated? If yes, during what time periods did this occur? If no, how did Respondent transport materials to SDDL? Identify the hauler(s) and provide the addresses, telephone numbers, and e-mail addresses of these entities.

**Answer:** As explained in NCR's Response to EPA's Information Request dated March 18, 2003, NCR may have hauled its own waste to the Site in dump trucks.

#### **PERMITS/REGISTRATIONS**

7. List all federal, state and local permits and/or registrations and their respective permit numbers issued to Respondent for the transport and/or disposal of materials.

**Answer:** As explained in response to Request No. 11, facilities in the Dayton area have had RCRA ID numbers as Small Quantities Generators, primarily related to facility maintenance. Exhibit 1 to NCR's Response to EPA's Information Request dated March 18, 2003 contains a listing from EPA's IDEA database for NCR facilities that have or had EPA identification numbers. RCRA ID numbers are also listed where applicable. NCR has not identified any additional permits and/or registrations issued to NCR for the transport and/or disposal of materials for the relevant time period.

8. Which shipments or arrangements were sent under each permit? If what happened to the hazardous substances differed from what was specified in the permit, please state, to the best of your knowledge, the basis or reasons for such difference.

**Answer:** See response to Request No. 7, which is incorporated by reference.

9. Were all hazardous substances transported by licensed carriers to hazardous waste Treatment Storage and Disposal Facilities permitted by the U.S. EPA?

**Answer:** Unknown. On information and belief, any waste transported from NCR to SDDL was transported before U.S. EPA existed.

10. List all federal, state and local permits and/or registrations and their respective permit numbers issued for the transport and/or disposal of wastes.

**Answer:** See response to Request No. 7, which is incorporated by reference.

11. Does your company or business have a permit or permits issued under Resource Conservation and Recovery Act? Does it have or has it ever had, a permit or permits under the hazardous substance laws of the State of Ohio? Does your company or business have an EPA Identification Number, or an identification number supplied by the State Environmental Protection Agency? Supply any such identification number(s) your company or business has.

**Answer:** As explained in NCR's Response to EPA's Information Request dated March 18, 2003, NCR has or had EPA Identification Numbers for several of its facilities within the United States. Facilities in the Dayton area have had RCRA ID numbers as Small Quantities Generators, primarily related to facility maintenance. Exhibit 1 to NCR's Response to EPA's Information Request dated March 18, 2003 contains a listing from EPA's IDEA database for NCR facilities that have or had EPA identification numbers. RCRA ID numbers are also listed where applicable.

12. Identify whether Respondent ever filed a Notification of Hazardous Waste Activity with the EPA or the corresponding agency or official of the State of Ohio, the date of such filing, the wastes described in such notice, the quantity thereof described in such notice, and the identification number assigned to such facility by EPA or the state agency or official.

**Answer:** NCR has not identified any Notifications of Hazardous Waste Activity that were filed during the relevant time period.

**RESPONDENT'S DISPOSAL/TREATMENT/STORAGE/RECYCLING/SALE OF WASTE  
(INCLUDING BY-PRODUCTS)**

13. Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management. For each individual identified in response to this question provide the current or most recent known address, telephone number and e-mail address.

**Answer:**

Bryan Heath, Manager, EHS Ethics & Compliance  
NCR Corporation  
3097 Satellite Blvd.  
Duluth, GA 30096  
(678) 808-6061  
bryan.heath@ncr.com

Employed by NCR since October 2010. Responsibilities include managing the company's environmental remediation liabilities including overseeing environmental consultants, financial reviews and approvals; also managing the corporate EHS group which consists of safety and product compliance.

Roger McCready  
Currently with Cox-Colvin & Associates, Inc. – Former NCR Corporate Environmental Engineer  
Cox-Colvin & Associates, Inc.

7750 Corporate Blvd  
Plain City, Ohio 43064  
(614) 526-2040  
Roger\_McCready@CoxColvin.com

William S. Brewer, Ph.D  
Retired – Former NCR EH&S Director  
101805 Cahill Road  
Raleigh, NC 27614  
(919) 889-1605  
wbescnc@aol.com

Earl D. Gregory, Ph.D  
Retired – Former Corporate Director of Environmental Health and Safety  
Per Mr. Gregory's 30(b)(6) deposition of September 13-14, 2001 in Cargill, Inc. v. Advanced Foundry, Inc., Case No. C-3:98-036 (re: Valleycrest landfill), Mr. Gregory started in that position in June 1999 and "had responsibility for all environmental, safety and health activities for NCR current and past operations, and [he advised] management on compliance strategies and general environmental safety and the health policies and practice."

14. Describe the containers used to take any type of waste from Respondent's operation, including but not limited to:

a. the type of container (e.g. 55 gal. drum, dumpster, etc.);

**Answer:** As explained in NCR's Response to EPA's Information Request dated March 18, 2003, NCR self-hauled wastes in dump trucks. Unknown as to any instance in which NCR did not self-haul.

b. the colors of the containers;

**Answer:** Unknown.

c. any distinctive stripes or other markings on those containers;

**Answer:** As explained in NCR's Response to EPA's Information Request dated March 18, 2003, NCR is not aware whether there were markings on the dump trucks. Unknown as to any instance in which NCR did not self-haul.

d. any labels or writing on those containers (including the content of those labels);

**Answer:** See response to Request No. 14(d), which is incorporated by reference.

e. whether those containers were new or used; and

**Answer:** Unknown.

f. if those containers were used, a description of the prior use of the containers.

**Answer:** Unknown.

15. For any type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling. Provide copies of all documents relating to the transportation or disposal



of said waste, including correspondence and manifests. Include all correspondence and records of communication between Respondent and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

**Answer:** Earl D. Gregory, NCR's 30(b)(6) representative in Cargill, Inc. v. Advanced Foundry, Inc., Case No. C-3:98-036 (re: Valleycrest landfill), testified in his deposition of September 13-14, 2001 that NCR employees recalled hauling NCR's waste to landfills near the Dayton complex in the time period prior to 1966, at which point NCR signed a contract with "IWD" for the disposal of waste. Other haulers used by NCR during the relevant time period and the possible ultimate disposal sites used by those haulers were identified in NCR's Response to EPA's Information Request for Valleycrest Landfill dated May 21, 1993, along with documents relating to the transportation or disposal of NCR's waste by those companies.<sup>1</sup> NCR has not identified any correspondence or records of communication between NCR and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

16. Provide copies of such contracts and other documents reflecting such agreements or arrangements.

**Answer:** See response to Request No. 15, which is incorporated by reference.

g. State where Respondent sent each type of its waste for disposal, treatment, or recycling.

**Answer:** Except for the information provided in response to Requests Nos. 5 and 15, unknown.

h. Identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).

**Answer:** See responses to Requests Nos. 5 and 15, which are incorporated by reference. Except for the information provided in response to Requests Nos. 5 and 15, unknown.

i. If Respondent transported any of its wastes away from its operations, please so indicate and answer all questions related to "Waste Carriers" with reference to Respondent's actions.

**Answer:** See response to Request No. 5, which is incorporated by reference.

j. For each type of waste specify which Waste Carrier picked it up.

**Answer:** See responses to Requests No. 15 and 16(g), which are incorporated by reference.

k. For each type of waste, state how frequently each Waste Carrier picked up such waste.

**Answer:** As explained in NCR's Response to EPA's Information Request dated March 18, 2003, the frequency and duration of hauling and total quantity of self-hauling is unknown. Any information about frequency and duration of hauling and total quantity for other haulers is provided in NCR's Response to EPA's Information Request for Valleycrest Landfill dated May 21, 1993.

l. For each type of waste state the volume picked up by each Waste Carrier (per week, month, or year).

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<sup>1</sup> Although NCR's Response to EPA's Information Request for Valleycrest Landfill dated May 21, 1993 references hauler "Industrial Waste Management," this appears to be an error as NCR has been unable to locate information suggesting that a company by that name existed.

**Answer:** See response to Request No. 16(k), which is incorporated by reference.

m. For each type of waste state the dates (beginning & ending) such waste was picked up by each Waste Carrier.

**Answer:** See response to Request No. 16(k), which is incorporated by reference.

n. Provide copies of all documents containing information responsive to the previous seven questions.

**Answer:** See response to Request No. 15, which is incorporated by reference.

o. Describe the vehicles used by each Waste Carrier to haul away each type of waste including but not limited to:

- i. the type of vehicle (e.g., flatbed truck, tanker truck, containerized dumpster truck, etc.);
- ii. names or markings on the vehicles; and
- iii. the color of such vehicles.

**Answer:** See response to Request No. 14, which is incorporated by reference.

j. Identify all of each Waste Carrier's employees who collected Respondent's wastes.

**Answer:** Unknown.

k. Indicate the ultimate disposal/recycling/treatment location for each type of waste.

**Answer:** Except for the information provided in response to Requests Nos. 5 and 15, unknown.

l. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.

**Answer:** See response to Request No. 15, which is incorporated by reference. NCR could not locate any additional non-privileged responsive documents.

m. Describe how Respondent managed pickups of each waste, including but not limited to:

- i. the method for inventorying each type of waste;
- ii. the method for requesting each type of waste to be picked up;
- iii. the identity of (see Definitions) the waste carrier employee/agent contacted for pickup of each type of waste;
- iv. the amount paid or the rate paid for the pickup of each type of waste;
- v. the identity of (see Definitions) Respondent's employee who paid the bills; and
- vi. the identity of (see Definitions) the individual (name or title) and company to whom Respondent sent the payment for pickup of each type of waste.

**Answer:** Unknown as to pickups; unknown as to self-hauling.



n. Identify the individual or organization (i.e., the Respondent, the Waste Carrier, or, if neither, identify such other person) who selected the location where each of the Respondent's wastes were taken.

**Answer:** As explained in NCR's Response to EPA's Information Request dated March 18, 2003, to the extent that NCR self-hauled to the "Broadway Landfill," it is probable that NCR selected the location for its waste. As explained in NCR's Response to EPA's Information Request for Valleycrest Landfill dated May 21, 1993, as to any instance in which NCR did not self-haul, it is probable that the hauler selected the location to take the waste.

o. State the basis for and provide any documents supporting the answer to the previous question.

**Answer:** See response to Request No. 15, which is incorporated by reference. NCR could not locate any additional non-privileged responsive documents.

p. Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:

- i. the nature and chemical composition of each type of waste;
- ii. the dates on which those wastes were disposed;
- iii. the approximate quantity of those wastes disposed by month and year;
- iv. the location to which these wastes drained (e.g. on-site septic system, onsite storage tank, pre-treatment plant, Publicly Owned Treatment Works (POTW), etc.); and
- v. whether and what pretreatment was provided.

**Answer:** NCR objects to Request No. 16(p) as not calculated to discover relevant information. Subject to and without waiving this or any other objection, NCR is not aware of any wastes disposed into its drains during the relevant time period, other than sanitary wastes.

q. Identify any sewage authority or treatment works to which Respondent's waste was sent.

**Answer:** See response to Request No. 16(p), which is incorporated by reference.

r. If not already provided, specify the dates and circumstances when Respondent's waste was taken to the SDDL Site, and identify the companies or individuals who brought Respondent's waste to the Site. Provide all documents which support or memorialize your response.

**Answer:** See response to Request No. 5, which is incorporated by reference.

#### **RESPONDENT'S ENVIRONMENTAL REPORTING:**

17. Provide all Resource Conservation and Recovery Act (RCRA) Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.

**Answer:** See response to Request No. 11, which is incorporated by reference.

18. Identify (see Definitions) all federal offices to which Respondent has sent or filed information about hazardous substance or hazardous waste.

**Answer:** See response to Request No. 11, which is incorporated by reference and which indicates that NCR has sent information to EPA.

19. State the years during which such information was sent/filed.

**Answer:** Unknown.

20. Identify (see Definitions) all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information.

**Answer:** Unknown.

21. State the years during which such information was sent/filed.

**Answer:** Unknown.

22. List all federal and state environmental laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq.; Solid Waste and Infectious Waste Regulations, OAC 3745-27 (former rule EP-20); Licenses for Solid Waste, Infectious Waste Treatment, or Construction and Demolition Debris Facilities, OAC 3745-37 (former rule EP-33); Solid and Hazardous Wastes, ORC 3734-01 through 3734-11; Open Burning Standards, OAC 3745-19-03.

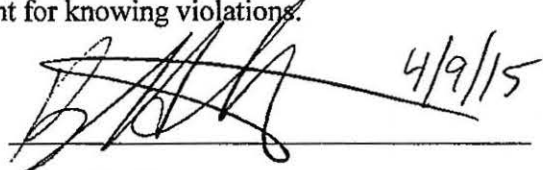
**Answer:** Exhibit 1 to NCR's Response to EPA's Information Request dated March 18, 2003 contains a listing from EPA's IDEA database for NCR facilities that have or had EPA identification numbers. Other laws and regulations under which Respondent has reported to federal or state governments are also listed where applicable, including RCRA.

23. Identify the federal and state offices to which such information was sent.

**Answer:** See response to Request No. 22, which is incorporated by reference and which indicates that NCR has sent information to EPA.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

A handwritten signature in black ink, appearing to read 'Bryan Heath', is written over a horizontal line. To the right of the signature, the date '4/9/15' is handwritten.

Bryan Heath

Manager, EHS

NCR Corporation